UNITED
NATIONS

CERD

International Convention
on the Elimination
of all Forms of
Racial Discrimination

Distr.
GENERAL

CERD/C/210/Add.1
30 September 1991

ENGLISH
Original: FRENCH

COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION
Forty-first session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION

Eleventh periodic reports of States parties due in 1991

Addendum

GREECE*

[7 August 1991]

---

* The present report constitutes the eighth, ninth, tenth and eleventh periodic reports of Greece, due on 19 July 1985, 19 July 1987, 19 July 1989 and 19 July 1991, respectively, and submitted in one document.

For the sixth and seventh periodic reports submitted by the Government of Greece and the summary records of the Committee at which those reports were considered, see:

Sixth periodic report - CERD/C/76/Add.1 (CERD/C/SR.576-SR.577);

Seventh periodic report - CERD/C/107/Add.7 (CERD/C/SR.714-SR.715).

GE.91-17696/4129B

CONTENTS

		Paragraphs
I.	General	1 - 14
II.	Information on the implementation of articles 2 to 7 of the Convention	15 - 54
	Article 2	15 - 26
	Article 3	27 - 33
	Article 4	34 - 43
	Article 5	44 - 46
	Article 6	47 - 50
	Article 7	51 - 54

I. GENERAL

1. In its earlier reports, the Government of Greece described for the Committee on the Elimination of Racial Discrimination the general context and provided explanations on Greek policy and legislation on the elimination of all forms of racial discrimination.

2. The present reports recall certain basic elements, draw attention to any trends in practice and in the relevant legislation and answer the questions that had been put by members of CERD during consideration of the seventh report.

3. In the main, the legal structure of the country, based on the deep-rooted convictions of the Greek people, is founded on the principles of equality and non-discrimination. As far as substantive rules are concerned, this structure covers the internal regulatory aspect, as well as a range of international commitments introduced and incorporated into internal law. It is further complemented by effective remedies, both internal and international.

4. With regard to the policy pursued, the Government of Greece reiterates its commitment to the principles and rules of the Convention on the Elimination of All Forms of Racial Discrimination and its determination to continue to work in that direction.

5. The constitutional structure of the country is that of a parliamentary republic headed by the President of the Republic. It may be recalled that the 1975 Constitution begins with the fundamental statement of equality in the enjoyment of the civil and political, economic, social and cultural rights which it guarantees (art. 2). It goes on to specify, in detailed provisions, the content and general framework for the implementation of these rights (arts. 4 to 25). Further, an introductory provision in article 2, paragraph 1, makes respect for and protection of the value of the human being "the primary obligation of the State".

6. The rights and freedoms set forth in the first part of the Constitution concern equality among citizens (art. 4); the free development of the personality and respect for human rights, the honour and freedom of all persons living in Greek territory without any discrimination as to nationality, race, language, religious or political beliefs (art. 5, paras. 1 and 2); the prohibition of the extradition of aliens prosecuted for their activities as freedom-fighters (art. 5, para. 2); personal liberty (art. 6); the prohibition of torture and the prohibition of the death penalty for political crimes (art. 7); the guarantees of fair civil, criminal or administrative proceedings (art. 8); the protection of the home (art. 9); the right to petition public authorities and the obligation of the latter to take action in such a case in accordance with the law (arts. 10 and 20); freedom of assembly (art. 11) and of association (art. 12); religious freedom (art. 13); freedom of expression (arts. 14 and 15); scientific, research and educational freedom (art. 16); the protection of private property (arts. 17 and 18); confidentiality of correspondence and communication (art. 19); the protection by the State of the family, marriage, motherhood and childhood (art. 21); the right to work, trade union freedom and the right to strike (art. 23); the protection of the physical and cultural environment (art. 24).

7. For the purpose of uniformity with the International Convention on the Elimination of All Forms of Racial Discrimination, which was ratified by Act No. 494/1970, the prohibition of any discrimination based on race was added to the text of article 5 of the 1975 Constitution. The Parliament also established a special regime for the punishment of acts or activities giving rise to racial discrimination.

8. Greece is a party to the European Convention on Human Rights (ratified by Act No. 53/1974), as well as to the second, third and fifth Additional Protocols (Act No. 215/1974) and to the seventh (Act No. 1705/1987) and eighth (Act No. 1841/1989) Additional Protocols. It signed the sixth and ninth Additional Protocols in 1990. It is a party to the International Covenant on Economic, Social and Cultural Rights (Act No. 1532/1985) and the European Social Charter (Act No. 1426/1984). The procedure for the ratification of the International Covenant on Civil and Political Rights is nearing completion. With regard to respect for the value of the human being, Greece is a party to the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Act No. 1782/1988; see the initial report submitted to the Committee against Torture on 24 September 1990, document CAT/C/7/Add.8), the Convention against Genocide (Act No. 3091/1954) and the Slavery Convention (Act No. 1145/1972).

9. As to general policy in respect of international relations and the assimilation of the international obligations assumed by the State, the Constitution contains the following general guideline:

> "Greece shall, in accordance with the generally recognized principles of international law, strive to consolidate peace and justice and to develop friendly relations among peoples and States" (art. 2, para. 2).

10. With regard, in particular, to the incorporation of the International Convention on the Elimination of All Forms of Racial Discrimination, as well as of conventional and customary international law as a whole, article 28, paragraph 1, of the Constitution expressly provides for the primacy of international law:

> "The generally recognized principles of international law and international conventions shall, as a result of their ratification by a law and their entry into force according to the conditions provided for therein, be an integral part of internal Greek law and take precedence over any contrary provision of the law."

11. According to this system, the principles of conventional and customary international law have greater force than ordinary law and, in the event of conflict, take precedence over any contrary provision of a previous or subsequent law. Judicial decisions have referred to this basic provision less in connection with possible conflicts with internal law as in order to emphasize that international law takes precedence.

12. The incorporation of international law under such conditions also has another consequence for law enforcement agencies: conventional and customary provisions are directly applicable by the courts and by the authorities in

general, since they contain legally complete provisions. As the law enforcement agency is dealing with self-executing rules, it does not have to determine, in order to give effect to them, whether any additional provisions have been adopted by internal bodies. Where an international rule is complete, it operates autonomously within the internal system. Its interpretation and implementation are in keeping with respect for the law in general.

13. It is typical that direct references are regularly found in judicial decisions not only to specific treaty obligations, but also to some basic principles which go beyond the conventional framework and form part of general customary law. For example, a ruling by the Thessaloniki Administrative Court (No. 2951/1985) states that the courts have to determine whether internal law is in conformity with the principle of equality and whether exceptions to this principle, as provided for by the Parliament, may be reconciled with the principle of non-discrimination. The case in question was one of discrimination on the basis of sex in connection with trade union freedom, but the court did not fail to emphasize that "trade union freedom of association is taken to be without discrimination of any kind based on sex, race, social origin, etc.".

14. Greece's participation since 1981 as a member of the European Community involves upward harmonization, both of substantative rules and of machinery for the operation and monitoring of the country's entire economic and social system. Collective efforts have been speeded up by the entry into force of the 1987 Single European Act. This is the result of the Community reforms and the fuller application of the principle of equality and non-discrimination on any grounds.

II. INFORMATION ON THE IMPLEMENTATION OF ARTICLES 2 TO 7 OF THE CONVENTION

Article 2

15. With regard to freedom of education and freedom of religion, the following development is worth noting: on the basis of earlier legislation, the Government refused to appoint Christian teachers belonging to the Catholic faith in public primary schools, since primary school teachers are also responsible for teaching their students the Christian Orthodox religion and such instruction cannot be given by a person of a different faith. This refusal by the Government was upheld by decision No. 2702/1987 of the Administrative Court of Appeal. In order to solve the problem, the Government had to introduce new legislation in Parliament. Thus, article 16 of Act No. 1771 of 19 April 1988 authorizes the appointment of persons of any religion or faith as public primary schoolteachers, not only in nursery schools, where there was no problem, since religion was not taught, but also in primary schools with more than one teaching post.

16. Freedom of assembly and association, which is guaranteed by articles 11 and 12 of the Constitution and the relevant international instruments to which Greece is a party, is regularly practised and respected throughout the country and by all persons without discrimination.

17. Article 5, paragraph 1, of the Constitution provides that "all persons shall have the right freely to develop their personality and to participate in the social, economic and political life of the country, as long as they do not infringe the rights of others or act in violation of the Constitution and moral values". Article 12 embodies the right to freedom of association, stating that no prior authorization by the administrative authorities is required for its exercise. There is, moreover, no kind of administrative supervision of associations.

18. Non-profit associations acquire legal personality by being registered in a book kept for this purpose in the Court of First Instance in the locality of their headquarters (art. 79 of the Civil Code). To this end, the statutes of associations are submitted to the Court, which orders their registration and publication, thus confirming that the conditions provided for by article 80 of the Civil Code (purpose, name, headquarters, admission and withdrawal of members, rights and obligations of members, funds, representation, officers, general assembly, amendment of statutes, dissolution) have been met (see also para. 37 below).

19. Foreigners take part freely in community life (including trade unions) and may establish non-profit associations. In this connection, the condition that statutes must provide that Boards of Directors will be composed of equal numbers of foreigners and Greeks (art. 107 of the Introductory Act to the Civil Code) was appealed before the courts. In its decision No. 4311/1984, the Athens Court of First Instance ruled that this provision of the Civil Code is not contrary to the Constitution, to the European Convention on Human Rights, which covers public law and order, health, morality, the rights and freedoms of others and the political activity of foreigners in a democratic society, or to the Treaty Establishing the European Community.

20. During a visit to Thrace on 12 and 13 May 1991, the Prime Minister, Mr. Constantine Mitsotakis, announced a broad programme for the development of the region. Despite the difficult economic situation and harsh recovery measures, the Government decided to endorse the proposals of an advisory body set up for this purpose. A new regional programme will be carried out partly with European Community funds and will include the improvement of the road network, the construction of additional drinking water tanks, the establishment of new hospital services and irrigation and flood prevention installations. It also provides for an additional allowance for workers in Thrace. A research centre for the ecological protection of lakes and rivers will be set up. The University of Thrace is also carrying out a project to establish a department of history and ethnology.

21. In Thrace, there is a Muslim minority consisting of about 115,000 persons and composed of three different ethnic groups, namely, persons of Turkish origin (50 per cent), Pomaks (35 per cent) and Gypsies (15 per cent). It should be noted that the Pomaks live in the mountainous Rhodope region and, because of their language, number and cultural heritage, are separate from the rest of the Muslim minority. The teaching of the rules of Islam and of the Turkish language (the only written minority language in the region, since the Pomak and Gypsy languages do not have any written form)

is part of the curriculum in 260 primary and secondary schools in Thrace. Such instruction is guaranteed free of charge by the State. Teachers are trained at the minority's teacher training school. It should be noted that the Government has decided to raise the teacher training school to the university level. Students at the school, which will become a faculty, will thus be able to pursue a full course of university studies by choosing either the teaching track or the theological-Islamic track.

22. For the Muslim minority in Thrace, the Prime Minister stated in particular:

> "Your region has a particular feature which is quite common in the Balkans: the population includes a Muslim minority. This minority consists of three separate ethnic groups, the group of Turkish origin, the Pomak group and the Gypsy group. Each group has its own particular features and its own traditions which have to be respected by all, in accordance, moreover, with the Treaty of Lausanne and Greek legislation.
>
> "Under its Constitution, Greece is determined to consolidate equality before the law and equality of civil and political rights for all inhabitants of Thrace, both Christian and Muslim. And when I say equality before the law and equality of civil and political rights, I mean absolute equality, which naturally does not exist only in respect of rights, but also in respect of obligations towards the State. The State, as you know, is working with a great deal of special interest to establish the appropriate infrastructure for the development of this region in all areas - development and prosperity which will benefit each and every person."

23. The provisions of the 1923 Treaty of Lausanne on the Muslim minority in Greece relate to the minority established in western Thrace. The first paragraph of article 2 of the 1923 Convention of Lausanne concerning the exchange of Greek and Turkish populations thus specifies which minorities are not included in the compulsory exchange of populations: "(a) The Greek inhabitants of Constantinople; and (b) The Muslim inhabitants of western Thrace". The third paragraph of this article states that "All Muslims established in the region to the east of the frontier line laid down in 1913 by the Treaty of Bucharest shall be considered as Muslim inhabitants of western Thrace."

24. The country also has a very small number of bilingual persons who can definitely not be characterized as members of a minority and who freely exercise and develop their cultural characteristics through associations and other manifestations.

25. The Greek Government has always shown a very keen interest in the protection of the Greek minority in Albania, which is estimated to consist of 350,000 to 400,000 persons. It is keeping a close watch on developments and hopes that the new Albanian Government will fulfil all its obligations under the relevant international instruments relating to the protection of this minority.

26. With regard to persons taking part in a trial and requiring an interpreter in order to express themselves, it should be pointed out that article 233 of the Code of Criminal Procedure states that, if the accused, a person who is liable in civil law or the witness does not know Greek well enough, the officer conducting the proceedings must appoint an interpreter to help him. If the foreign language is not well known, an interpreter is appointed for the interpreter (art. 283 of the Code of Criminal Procedure). The same rule applies to a party, witnesses and experts in a civil trial (art. 252 of the Code of Civil Procedure). The assistance of the interpreter is free of charge and these provisions have never given rise to any problems of interpretation or implementation.

Article 3

27. Greece has always been firmly opposed to any form of racism, especially the hysterical racism of apartheid.

28. Since 1984, Greece has taken an active part in all the international conferences and other international meetings that have dealt with the question of sanctions against South Africa and it implements a sanctions policy. Through its Minister for Foreign Affairs, it took part in the Harare Conference (January 1986) and, as a full member (not an observer), in the World Conference on Sanctions against South Africa (Paris, July 1986), the International Conference for the Immediate Independence of Namibia (Vienna, 1986), the special session of the General Assembly of the United Nations (September 1986) and the Istanbul, Buenos Aires, Luanda and Toronto seminars.

29. Since the Conference of Heads of African States (Harare, 1986), moreover, Greece has taken part as a guest in all conferences of the movement of non-aligned countries.

30. In September 1988, Greece organized a symposium in Athens on "culture against apartheid", which adopted proposals for an international campaign with the participation of many personalities from the art and show business worlds.

31. Within the European Community, Greece has also been taking part in the formulation and implementation of the Community policy against apartheid and on the implementation of sanctions (for the first time, in 1985) and assistance to victims of apartheid (1985).

32. When the South African Government announced the adoption of gradual measures for the suppression of the legislative machinery of apartheid in February 1990, the Government of Greece expressed its satisfaction in a press release, which stressed that other measures of liberalization, such as the full repeal of racist legislation and the release of political prisoners, were essential. This position was reiterated by the Greek Government during a working visit to Athens by President F. W. De Klerc (May 1990). Since then, the Greek Government has been keeping a close watch on the situation and considers that far-reaching negotiations on a new constitution should be preceded by certain measures and, in particular, the release of all political prisoners, the return of exiles and the elimination of violence.

33. In addition to its participation in the various Community programmes, Greece continues to implement its own programme of financial support for victims of apartheid and the granting of fellowships to black South African students studying in Greek universities and other institutions of higher education.

Article 4

34. The Committee was informed in preceding reports of the content of Act No. 927/1979, which was promulgated in accordance with article 4 of the Convention.

35. According to article 1, paragraph 1, of the Act, anyone who publicly, whether orally or in the press, by written or illustrated texts or by any other means, intentionally incites discrimination, hatred or violence against persons or groups of persons solely on account of their racial or national origin is punishable by no more than two years' imprisonment or a fine or both.

36. Article 1, paragraph 2, provides for the same penalties for any person who forms or participates in organizations whose purpose is to organize propaganda or activities of any nature that give rise to racial discrimination.

37. Article 2 also provides for a penalty of up to one year's imprisonment or a fine or both for anyone who publicly, whether orally or in the press, expresses ideas which are offensive to other persons or groups of persons because of their racial or national origin.

38. According to article 3, the same penalties are applicable to anyone who, in his professional capacity as a provider of goods or services, withholds such goods or services from any person solely on account of that person's racial or national origin or makes the provision of such goods or services contingent upon some condition relating to that person's racial or national origin.

39. As a result of a 1984 amendment (Act No. 1419), discrimination on account of religion is also governed by and punishable under Act No. 927/1979.

40. If an organization conceals its racist purposes, the filing of its statutes with the Court of First Instance is probably not enough to combat the harm it may cause. It should thus be pointed out that article 105 of the Civil Code is applicable in such a case. It provides for the association's dissolution on the order of the Court of First Instance if the association "has a purpose different from the one specified in its statutes" or if "the purpose and operation of the association have become unlawful, immoral or contrary to public order".

41. The fact that Act No. 927 provides that prosecution may take place only if a complaint has been filed does not mean that the Prosecutor's Office does not have the right to act automatically to guarantee the rule of law and racial non-discrimination whenever public order is endangered.

42. When the Prosecutor of the Correctional Court receives the complaint, moreover, he determines whether it is legally well founded and can be examined by the Court as to the merits (art. 47 of the Code of Criminal Procedure). He may also order a preliminary investigation. If the Prosecutor decides not to prosecute, the complainant is entitled to lodge an appeal with the Prosecutor of the Court of Appeal, which takes a final decision on the complaint.

43. No society is free of tension, but, as far as the Greek authorities know, there has been no case requiring the application, either for private individuals or for the judiciary, of Act No. 927 or of the general provisions of the Convention itself on the elimination of acts of racial discrimination. This comment also applies to the Government authorities at all levels.

Article 5

44. In the past three years, Greece has ratified a number of International Labour Conventions (a total of 67 conventions has been ratified) and, in particular, the following instruments: the Discrimination (Employment and Occupation) Convention (1984); the Maternity Protection Convention (1983); the Accommodation of Crews Convention (1986); the Seafarers' Pensions Convention (1986); the Safety Provisions (Building) Convention (1984); the Employment Policy Convention (1984); the Accommodation of Crews Convention (1986); the Workers' Representatives Convention (1988); the Minimum Age Convention (1986); the Nursing Personnel Convention (1987); the Labour Administration Convention (1985); the Vocational Rehabilitation and Employment (Disabled Persons) Convention (1985); the Workers with Family Responsibilities Convention (1988); the Rural Workers' Organizations Convention (1989); the Human Resources Development Convention (1989); and the Accommodation of Crews (Fishermen) Convention (1990).

45. With regard to freedom and transparency of religion, the Council of State has confirmed in order No. 3601/1990 that all ministers of religion are exempted from military service. This applies not only to Orthodox, Catholic and Protestant Christians and to Muslims and Jews, as has always been the case, but also to all other known religions and faiths, i.e., according to the Council of State, those whose doctrine, teachings and rites are accessible.

46. The Greek Orthodox religion is that of almost the entire population and it predominates for historical, social and cultural reasons. The monitoring by the State of ministers of religion is the result of the simple fact that they perform acts in the exercise of public authority and are, for the most part, remunerated by the State as public officials. It should be pointed out, in particular, that ministers of all religions and faiths celebrate religious marriages, which exist in Greece side by side with civil marriages. Religious marriages have to be registered by the administrative authorities. Another example is that Greece is the only country - or, in any case, one of the few countries - in Europe where the Muslim religious leader not only exercises administrative authority vis-à-vis the clergy under his jurisdiction, but also exercises judicial authority over Muslims in connection with marriage and

divorce, alimony, the guardianship and emancipation of minors, Islamic rules and intestate succession. The decisions of the Mufti are subject to the civil judicial authority only in respect of jurisdiction. The civil judicial authority does not ensure that such decisions are in conformity with Islamic law, for which the Mufti is exclusively responsible.

Article 6

47. With regard to the protection of the reputation of the individual, the relevant provision of article 57 of the Civil Code is applied quite frequently. This provision, the text of which is reproduced in the sixth report (CERD/C/76/Add.1), establishes an autonomous and independent individual right to the protection afforded by the Constitution, the Penal Code and special laws. The Civil Code also contains other provisions of a specific nature, such as articles 920, 921 and 932 on questions of liability, articles 588, 660 and 662 on health, articles 668 and 60 on intellectual property and article 58 on reputation.

48. Doctrine and jurisprudence have defined the scope of article 57 of the Civil Code, which covers all elements inherent to the human being and applies to the protection of physical and intellectual property, honour, freedom, privacy, the home and the representation of the face and body in general, (Athens Court of Appeal, decision Nos. 1819/1956 and 3385/1958; Court of Cassation, decision Nos. 470/1963, 484/1973, etc.).

49. The implementation of article 57 of the Civil Code does not require the existence of fault (wrongfulness or negligence) unless the injured party also claims compensation. Article 57 also provides for (a) the requirement that the attack on a person's reputation must be discontinued; (b) the reparation of the moral injury; (c) compensation for the physical injury caused, in accordance with article 914 of the Civil Code (fault); (d) the existence of the right of self-defence; and (e) the adoption of interim measures. The question whether an act is an attack on a person's reputation is a legal one which is therefore subject to review by the Court of Cassation.

50. In addition to effective remedies before the administrative and judicial authorities (civil, criminal and administrative), as provided for in the Greek legal system and described in the sixth and seventh reports, there is the individual right to appeal to the European Commission of Human Rights. This remedy, which is provided for by article 25 of the European Convention on Human Rights, was recognized by Greece in a declaration made on 20 November 1985 and renewed on 20 November 1988.

Article 7

51. The written and electronic media are without exception in favour of action to combat racial discrimination. It is a common practice in the press to report all information relating to international efforts to eradicate racism and to comment on the facts from the point of view of non-discrimination and equality.

52. Human rights and knowledge of and respect for all cultures are taught at all levels of education. The report of Greece contained in document CAT/C/7/Add.8 refers to the instruction on respect for human rights given to the custodial personnel training section of the correctional officers' school and in police schools.

53. In addition, private human rights bodies regularly organize lectures and courses on international instruments for the protection of human rights, including the International Convention on the Elimination of All Forms of Racial Discrimination.

54. A study of the Convention is a normal part of the curriculum in all law and political science faculties in the country. Moreover, the commentaries to the Convention and its institutional structure are often dealt with by students in their theses.